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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/580,403

08/18/2006

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23373 7590 04/29/2009  
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EXAMINER

VAKILI, ZOHREH

ART UNIT

PAPER NUMBER

1614

MAIL DATE

DELIVERY MODE

04/29/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/580,403	<b>Applicant(s)</b> KUBO ET AL.	
	<b>Examiner</b> ZOHREH VAKILI	<b>Art Unit</b> 1614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 January 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 1-9 and 12-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 10, 11, 22-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>3/12/2009</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

**Claims 1-25 are presented for examination.**

Applicant's Amendment filed January 15, 2009 has been received and entered into the present application. Claims 1-9 and 12-21 are withdrawn from consideration as being directed to non-elected subject matter. Claims 10-11 and 22-25 are pending and are herein examined on the merits.

Applicant's arguments, filed January 15, 2009 have been fully considered. Rejections not reiterated from previous Office Actions are hereby withdrawn. The following rejections are either reiterated or newly applied. They constitute the complete set of rejections presently being applied to the instant application.

### ***Claim Rejections - 35 USC § 102 (New Grounds of Rejection)***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 10-11 and 22-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Fujii et al. (US Pat. No. 7015252 B2) (cited on IDS).

Fujii et al. discloses a method administering reduced and oxidized

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coenzyme Q of formula 1 and 2 is coenzyme Q10 (see claim 2), to a human for treatment of diseases such as hepatic cirrhosis (see claim 5). The formulas 1 and 2 are represented in claim 3. Once liver cells are protected from damage as indicated by using the composition Q10 it is inherent that GPT or GOT activities are reduced in blood as indicated in claims 23-25 by damage to liver cells GPT or GOT activities are increased in blood. When compound is known to treat liver disease therefore the property increase in GPT or GOT activity in blood would be inherent. Consequently, the reference anticipates the claimed invention defined in claims 10-11 and 22-25.

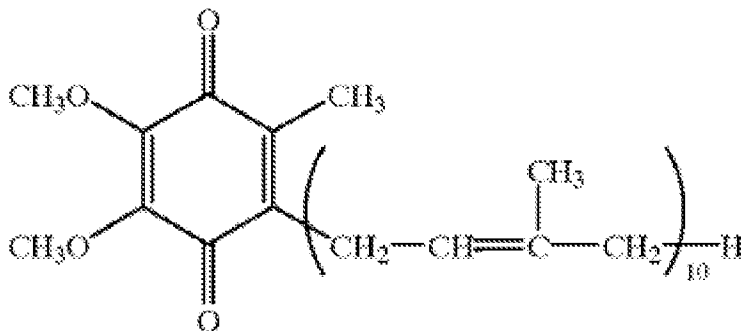
***Claim Rejections - 35 USC § 103 (Maintained)***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary.

Mae et al. teach the present invention has for its object to provide a medicinal composition comprising coenzyme Q10 as an active ingredient, which composition features an enhanced absorption after oral administration. The present invention is directed to a medicinal composition comprising coenzyme Q10 as an active ingredient with the reduced form of coenzyme Q10 (see abstract).



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JP 52042837 A discloses coenzyme Q, useful against hypertrophy of the liver and heart attack (see abstract).

It would have been obvious to one of ordinary skill in the art to use the teachings of Mae et al. to produce a composition comprising coenzyme Q that is useful in protecting liver function as taught by JP 52042837 A.

One would have been motivated to create such a method and compound consisting of coenzyme Q for protection of liver function. Furthermore, both Mae et al. and JP 52042837 A teach of a composition comprising of coenzyme Q and its use. Therefore, one of ordinary skill in the art would have been motivated to use coenzyme Q and use it in the protection of liver function.

Finally, one would have a reasonable expectation of success given that Mae et al. and JP 52042837 A provide a detailed blueprint for making a composition for the protection of the liver function, the sequence of which is provided by both of the above references, and the steps of which are routine to one of ordinary skill in the art.

Thus in the absence of evidence to the contrary, the invention of claims 10-11 and 22-25 would have been prima facie obvious as a whole to one of ordinary skill in the art at the time the invention was made.

### ***Response to Argument***

Applicant's arguments and remarks are moot in view of new grounds of rejection.

### ***Conclusion***

No claims of the present application are allowed.

Applicant's submission of an information disclosure statement under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p) on March 12, 2009 prompted the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 609.04(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Zohreh Vakili whose telephone number is 571-272-3099. The examiner can normally be reached on 8:30-5:00 Mon.-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ardin Marschel can be reached on 571-272-0718. The fax phone number for the organization where this application or proceeding is

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assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Zohreh Vakili

Patent Examiner 1614

April 17, 2009

/Ardin Marschel/

Supervisory Patent Examiner, Art Unit 1614